

## **REMARKS**

The following claims are pending in the application: 1 – 3 and 5 - 15.

The following claims have been amended: 1, 14

The following claims have been canceled: Not applicable

### **The Amendments to Claims 1 and 14**

Applicants have amended claims 1 and 14 to correct an antecedent basis issue and to clarify the scope of the present invention. Applicants respectfully submit that no new matter was added in amending either claim 1 or 14.

### **The Rejection of the Claims Under 35 U.S.C. §103(a)**

The Examiner rejects claims 1 – 3, 5 – 10 and 12 – 14 under 35 U.S.C. §103(a) as being unpatentable over Sartain et al. (US Pat. No. 5,914,712) in view of Lewis et al. (US Pat. No. 4,852,154) and further in view of Ferraro (US Pat. No. 5,151,782). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sartain reference with the teachings of Lewis and Ferraro, so that each cable television event, such as a pay-per-view event, would have its own unique telephone number for ordering, and a customer account number would have been retrieved by calling number, because, such modification would have simplified cable event ordering by eliminating a program ID selecting step, and would have clarified how a customer was billed when calling from his own home.

Applicants respectfully submit that the Examiner's outstanding rejection of claim 1 may be properly withdrawn as the combination of references cited by the Examiner

(i.e., Sartain, Lewis and Ferraro) fails to teach each and every limitation of the invention of claim 1.

First and foremost, the Applicants respectfully disagree with the Examiner's summary of the Sartain disclosure. Sartain is specifically directed towards a system for distributing digital video programs to a predetermined group of subscribers. (Abstract) A continuous program which includes the digital video programs is broadcast to a group of subscribers or displayed on televisions. (Abstract) Each of the subscribers has the option of selecting one of the digital video programs for broadcast *to the group*. (Abstract; emphasis added) Put another way, Sartain discloses a system whereby a subscriber interested in seeing a particular music artist's video (e.g., Celine Dion) calls a 1-800 or 1-900 number associated with a specific channel on the subscriber's cable service and enters a code specific to the desired artist's video. The desired video is then placed in a queue for broadcast *to everyone watching the specific channel* on that cable provider. Thus, Sartain cannot fairly be said to disclose a pay-per-view system as everyone tuned to the specific cable channel can view the content ordered by others. The Examiner's argument that the television events advertised in Figure 2 are pay-per-view programs not included in regular monthly cable television programming is inaccurate. As Sartain explicitly discloses that an ordered video is broadcast to everyone watching the designated channel, the Examiner's position that the television events are not included in regular monthly television programming is in error. If ordered by another, a subscriber can freely enjoy the ordered content without paying more than the subscriber's regular monthly cable bill. (Perhaps it is more appropriate to consider

Sartain a “pay-per-order” system because unlike “pay-per-view”, non-purchasers of a given video also receive the content.)

Furthermore, the Examiner contradicts himself regarding the disclosure of Sartain. Initially, the Examiner accurately notes that Sartain fails to teach that each television event has its own unique telephone number. This makes sense since Sartain explicitly teaches that each video has an associated identification number. (col. 3, ll. 13 – 16) However, the Examiner’s subsequent statement that each event inherently has its own 1-800 or 1-900 number relies upon the Examiner’s unsupportable contention that Sartain’s disclosure of a promotional activity may have only one event, such as a sporting event. However, Sartain never mentions nor discloses what constitutes a promotional activity – and the Examiner’s interpretation of a promotional activity ignores the more likely interpretation that Sartain meant something along the lines of “50% off to first time callers” or “buy two videos get one free” by “promotional activity”. (See col. 10, ll. 8 – 15) Accordingly, the Examiner’s conclusion that each event has its own 1-800 or 1-900 number is self-serving and unsupported. As Sartain fails to teach a system utilizing unique telephone numbers for each event, but rather associates an identification number with each video, Sartain cannot be said to teach or disclose that each event is associated with its own called number.

Also, Sartain fails to teach or suggest that *customer information including an account number is retrieved from the data storage component*. Rather, Sartain teaches that the caller’s number is *compared* against a list of telephone numbers associated with subscribers who have previously not paid. (Col. 5, ll. 1 – 8) Additionally, Sartain fails to teach or suggest that the information placed in the log (which the Examiner

analogizes to the temporary data container) is *used in subsequent call processing applications of the automatic voice response unit* (IVR, Figure 5, element 600).

Finally, Sartain fails to teach that a customer account number is obtained from the calling number and is automatically associated with ordering of the event. Rather, Sartain teaches and only teaches that either the subscriber's telephone number or a subscriber number (a term used separate and apart from "account number" in Sartain) is associated with ordering an event. (Col. 5, ll. 1 – 13). Sartain fails to state that the calling number, or subscriber number, is ever automatically associated with the ordering of the event. Also, Sartain fails to teach or suggest that the customer account number and the called number are sent to the automatic voice response unit.

Lewis fails to cure the deficiencies of Sartain discussed above. First, Lewis similarly fails to teach or suggest the use of *an automatic voice response that receives the customer account number and called number*. Instead, Lewis teaches that a multifrequency (MF) outputter receives the called and calling numbers and outputs the called and calling numbers as multifrequency (MF) tones that are sent to a MF decoder which converts the MF tones into digital form. (Col. 5, ll. 55 – col. 6, ll. 14) The digital MF tones (now referred to as a character string or digital word) is communicated to the CATV cable company after conclusion of the call. Essentially, Lewis teaches a system that receives orders for pay-per-view events and forwards the order on to the CATV cable company.

Additionally, Lewis similarly does not teach, mention or suggest *a data storage component configured with customer information including an account number and event information*. (And there would be no need for the system of Lewis to have such

components as Lewis explicitly teaches that each event is provided with a unique telephone number). As Lewis does not have a data storage component, Lewis cannot fairly be said to teach retrieving account number information from said data storage component.

Because Lewis fails to teach that the automatic voice response unit receives the customer account number and/or the called number from a temporary data container, Lewis cannot be said to teach the use of this information in subsequent call processing applications *of the automatic voice response unit*. Rather, Lewis explicitly teaches that the called number is digitized by a MF decoder and sent to the CATV cable company after completion of the ordering telephone call. Lewis is silent as to any retrieval of the customer account number – especially using the calling number. Accordingly, Lewis could not automatically associate the customer account number with the ordering of an event.

Ferraro, cited solely for its alleged teaching that a calling number (ANI) is used to obtain the account number of the caller in a cable television environment, fails to cure the deficiencies of Sartain and Lewis as discussed at length above. Specifically, Ferraro fails to teach or suggest that the customer account number and called number are sent to the automatic voice response unit. Accordingly, Ferraro cannot be said to teach or suggest that information from a temporary data container is *used in subsequent call processing applications of the automatic voice response unit* (IVR, Figure 5, element 600).

Accordingly, as the combination of references fails to teach or suggest each and every element of the claimed invention, Applicants respectfully submit that the Examiner's outstanding rejection of claim 1 may be properly withdrawn.

With regard to claim 2, the Examiner takes the position that the modified Sartain system is for pay-per-view movie or other television special events (Sartain, col. 5, ll. 1-22; Lewis, abstract).

Applicants respectfully submit that the Examiner's rejection of claim 2 may be properly withdrawn because claim 2 is dependent from claim 1 which has been differentiated above.

With regard to claim 3, the Examiner takes the position that Sartain teaches different application for different television programs on the voice response unit (col. 3, ll. 29 – 34).

Applicants respectfully submit that the Examiner's rejection of claim 3 may be properly withdrawn because claim 3 is dependent from claim 1 which has been differentiated above.

With regard to claim 5, the Examiner takes the position that Sartain teaches multiple calling numbers for multiple programs which inherently has a number of table for processing incoming calls based on the called number.

Applicants respectfully submit that the Examiner's rejection of claim 5 may be properly withdrawn because claim 5 is dependent from claim 1 which has been differentiated above.

With regard to claim 6, the Examiner takes the position that Sartain teaches that the calling number and the called number are stored in the log (col. 4, ll. 22 – 28).

Applicants respectfully submit that the Examiner's rejection of claim 6 may be properly withdrawn because claim 6 is dependent from claim 1 which has been differentiated above.

With regard to claim 7, the Examiner takes the position that it is inherent that various data are transmitted between the switch and the voice response unit, such as prompts and billing information.

Applicants respectfully submit that the Examiner's rejection of claim 7 may be properly withdrawn because claim 7 is dependent from claim 1 which has been differentiated above.

With regard to claim 8, the Examiner, as best as can be understood, takes notice that it is well known in the art that there is a live operator connected to an automated system in order to solve problems encountered by the automated system.

As an initial matter, Applicants respectfully traverse the Examiner's notice that "it is well known in the art that there is a live operator connected to an automated system in order to solve problems encountered by the automated system". Specifically, the Examiner has not provided any evidence upon which to base the Examiner's position. Accordingly, the Applicants request that the Examiner provide documentary evidence supporting the Examiner's "official notice" of the afore-stated factual assertion. See generally, MPEP 2144.03. Furthermore, Applicants respectfully submit that the Examiner's rejection of claim 8 may be properly withdrawn because claim 8 is dependent from claim 1 which has been differentiated above.

With regard to claim 9, the Examiner takes the position that Sartain teaches retrieving a customer's data before processing ordering (col. 5, ll. 1 – 22).

Applicants respectfully submit that the Examiner's rejection of claim 9 may be properly withdrawn because claim 9 is dependent from claim 1 which has been differentiated above.

With regard to claim 10, the Examiner takes the position that Sartain teaches that the customer's data includes credit card data (col. 5, ll. 1 – 22).

Applicants respectfully submit that the Examiner's rejection of claim 10 may be properly withdrawn because claim 10 is dependent from claim 1 which has been differentiated above.

With regard to claim 12, the Examiner takes the position that the modified Sartain reference, teaches that the voice response unit includes a called number pay-per-view (PPV) based application (col. 3, ll. 17 – 20), a menu based PPV application (col. 3, ll. 29 – 34) and a call routing functions for retrieving a customers data (col. 4, ll. 22 – 28).

Applicants respectfully submit that the Examiner's rejection of claim 12 may be properly withdrawn because claim 12 is dependent from claim 1 which has been differentiated above.

With regard to claim 13, the Examiner takes the position that the modified Sartain reference teaches multiple telephone numbers, each for a television event, and that Sartain teaches that each PPV program has its own prompt for processing orders (col. 3, ll. 29 – 34).

Applicants respectfully submit that the Examiner's rejection of claim 13 may be properly withdrawn because claim 13 is dependent from claim 1 which has been differentiated above.



With regard to claim 14, the Examiner takes the position that Sartain discloses a method for television programs (events) ordering, comprising the steps of:

receiving a call ata switch (a telephone system inherently comprising a switch)  
(col. 2, ll. 49 – 56);

obtaining the caller's number (col. 5, ll. 1 – 6) and the called number (col. 2, ll. 49 – 56);

retrieving customer data from a database based on the calling number (col. 5, ll. 1 – 6);

storing the retrieved customer data in a log (temporary storage)C9col. 4, ll. 22 – 28); and

running an automatic voice response application for cable television program ordering (col. 3, ll. 29 – 34; col. 9, ll. 42 – 46; col. 10, ll. 8 – 15).

According to the Examiner, Sartain teaches providing different telephone numbers for different selection types such as regular selection and promotional activities (col. 3, ll. 17 – 20), but fails to teach that each television event has its own unique telephone number. The Examiner additionally argues that Sartain also teaches that when ordering from a telephone outside a subscriber's home, some type of account number must be provided for payment (col. 3, ll. 51 – 54), and a caller's telephone number must be provided for payment (col. 3, ll. 51 – 54), and a caller's telephone number is used to check payment information (col. 5, ll. 1 – 8), but fails to teach using a calling number to obtain a caller's account.

However, argues the Examiner, since Sartain teaches cable television (col. 4, ll. 49 – 53), it is obvious that the television events advertised in Figure 2 (col. 4, ll. 6 – 18)

are pay-per-view programs not included in regular monthly cable television programming, and a promotional activity may have only one sporting event, and the regular selection may also have only one new feature at a given time, then each event inherently has its own 1-800 or 1-900 number. In addition, the Examiner takes the position that, each pay-per-view television event has its uniquely own telephone number, and using a calling number to obtain an account number are old and well known in the art. In the Examiner's opinion, a prior art reference by Lewis discloses a pay-per-view cable television (CATV) system in Figure 1, comprising a switch 18 for receiving a calling telephone and a called telephone number (col. 3, ll. 40 -53; col. 4, ll. 24 – 35; col. 5, ll. 44 -58), a computer 30 for storing customer and television events information (col. 6, ll. 33 – 35; col. 3, ll. 40 – 53), a voice response unit (VRU) 36 for interacting with customers (Col. 6, ll. 48 – 59). The Examiner further argues that Lewis teaches that each called telephone number uniquely identifies a selected television event (Abstract; col. 3, ll. 40 – 45). Furthermore, the Examiner takes the position that Ferraro teaches that a calling number (ANI) is used to obtain the account number of the caller in a cable television environment (col. 14, ll. 14 – 23).

Thus, concludes the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sartain reference with the teachings of Lewis and Ferraro, so that each cable television's event, such as a pay-per-view event, would have its own unique telephone number for ordering, and a customer account number would have been retrieved by calling number, because such modification would have simplified cable event ordering by eliminating a program ID

selecting step, and would have clarified how a customer was billed when calling from his own home.

Applicants respectfully submit that the Examiner's rejection of claim 14 may be properly withdrawn for the same reasons as annunciated in the response to Claim 1 above.

Claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Sartain et al. (US Pat. No. 5,914,712) in view of Lewis et al. (US Pat. No. 4,852,154) and further in view of Ferraro (US Pat. No. 5,151,782) and further in view of Hendricks et al. (US Pat. No. 6,160,989).

The Examiner states that the modified Sartain reference teaches a cable television event ordering system, but fails to teach referring a customer to a live agent in case the customer has bad credit. The Examiner takes the position that Hendricks discloses a cable TV delivery system and that Hendrick's teaches that if a subscriber's account is delinquent (bad credit), any order of new program or channels is denied, and then the subscriber is referred to a live operator (agent) (col. 33, ll. 3 – 13).

The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Sartain reference, which was modified by Lewis, with the teachings of Hendricks, so that orders from customers with bad credit would have been denied, and the customers would have been referred to a live operator for resolving payment questions, because such modification would have allowed the live operator to resolve payment issues with the customer.

Applicants respectfully submit that the Examiner's rejection of claim 11 may be properly withdrawn because claim 11 is dependent from claim 1 which has been differentiated above and that Hendricks fails to cure the deficiencies of the combination of Sartain, Lewis and Ferraro.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Sartain et al. (US Pat. No. 5,914,712) in view of Lewis et al (US Pat. No. 4,852,154) and further in view of Ferraro (US Pat. No. 5,151,782) and further in view of Stoel et al. (US Pat. No. 5,905,942).

The Examiner argues that the modified Sartain reference teaches using a customer number (PIN) to identify a customer (col. 5, ll. 8 – 11), but fails to teach that the PIN includes a rating. The Examiner further argues that Stoel teaches a method for video distribution and teaches that a subscriber is required to enter a PIN for PIN based rating of movies or PPV events (col. 5, ll. 41 – 58).

Thus, concludes the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Sartain reference with the teaching of Stoel, so that the PIN would have included rating information, because such modification would have prevented minors from ordering adult programs.

Applicants respectfully submit that the Examiner's rejection of claim 15 may be properly withdrawn because claim 15 is dependent from claim 14 which has been differentiated above and that Stoel fails to cure the deficiencies of the combination of Sartain, Lewis and Ferraro.

**CONCLUSION**

In view of the foregoing amendment and accompanying remarks, the Applicants respectfully submit that the present application is properly in condition for allowance and may be passed to issuance upon payment of the appropriate fees.

Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the subject application is respectfully encouraged.

Respectfully submitted,

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